

104TH CONGRESS
1ST SESSION

H. R. 1416

To implement the Convention Against Torture and Other Forms of Cruel, Inhuman, and Degrading Treatment or Punishment and to provide a program of support for victims of torture.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1995

Mr. SMITH of New Jersey (for himself, Mr. LANTOS, Mr. HYDE, Mr. WOLF, Mr. ROHRABACHER, Mr. YATES, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. SABO, and Ms. MCKINNEY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on International Relations and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To implement the Convention Against Torture and Other Forms of Cruel, Inhuman, and Degrading Treatment or Punishment and to provide a program of support for victims of torture.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Torture Victims Relief
5 Act of 1995”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) The American people abhor torture and the
4 use of atrocities by repressive governments. The ex-
5 istence of torture creates a climate of fear and inter-
6 national insecurity that affects all people.

7 (2) Torture is the strategic use of pain to de-
8 stroy both individuals and society. The effects of tor-
9 ture are long term. Those effects can last a lifetime
10 for the survivors and affect future generations.

11 (3) By eliminating leadership of their opposi-
12 tion and frightening the general public, repressive
13 governments use torture as a weapon against democ-
14 racy.

15 (4) Torture victims remain under physical and
16 psychological threats, especially in communities
17 where the perpetrators are not brought to justice. In
18 many nations, even those who treat torture victims
19 are threatened with reprisals, including torture, for
20 carrying out their ethical duties to provide care.
21 Both the survivors of torture and their treatment
22 providers deserve, and often require, protection from
23 further repression.

24 (5) A significant number of refugees and
25 asylees entering the United States have been victims
26 of governmental torture. Those claiming asylum de-

1 serve prompt consideration of the applications for
2 political asylum to minimize their insecurity and
3 sense of danger. Many torture survivors now live in
4 the United States. They should be provided with the
5 rehabilitation services which would enable them to
6 become productive members of our communities.

7 (6) Building democratic cultures requires not
8 only legal and political institution-building, but also
9 addressing the physical, psychological, and spiritual
10 damage of repression, in order to foster a climate
11 and opportunity of healing for the victims and for
12 society.

13 (7) The development of a treatment movement
14 for torture survivors has created new opportunities
15 for action by the United States and other nations to
16 oppose state-sponsored acts of torture.

17 (8) There is a need for a comprehensive strat-
18 egy to protect and support torture victims and their
19 treatment providers as part of the overall objective
20 of eliminating torture.

21 (9) By acting to heal the survivors of torture
22 and protect their families, the United States can
23 move to defeat the actions of torturers.

24 (10) The United States has ratified the Con-
25 vention Against Torture and Other Cruel, Inhuman,

1 or Degrading Treatment or Punishment, but has not
2 implemented all provisions of the convention.

3 **SEC. 3. DEFINITIONS.**

4 (a) IN GENERAL.—Except as otherwise provided the
5 terms used in this Act have the same meaning given such
6 terms in section 101(a) of the Immigration and National-
7 ity Act.

8 (b) TORTURE.—As used in this Act, the term “tor-
9 ture” means any act by which severe pain or suffering,
10 whether physical or mental, is intentionally inflicted on a
11 person for such purposes as obtaining from the person or
12 a third person information or a confession, punishing the
13 person for an act the person or a third person has commit-
14 ted or is suspected of having committed, or intimidating
15 or coercing the person or a third person, or for any reason
16 based on discrimination of any kind, when such pain or
17 suffering is inflicted by, at the instigation of, or with the
18 consent or acquiescence of a public official or other person
19 acting in an official capacity. It does not include pain or
20 suffering arising only from, inherent in, or incidental to
21 lawful sanctions.

22 (c) SUBSTANTIAL GROUNDS FOR BELIEVING.—As
23 used in this Act, the term “substantial grounds for believ-
24 ing” means substantial evidence.

1 (d) IN DANGER OF BEING SUBJECTED TO TOR-
2 TURE.—As used in this Act, the term “in danger of being
3 subjected to torture” means circumstances in which a rea-
4 sonable person would fear subjection to torture.

5 (e) INVOLUNTARY RETURN.—As used in this Act, the
6 term “involuntary return” means to take action by which
7 it is reasonably foreseeable that a person will be required
8 to return to a country without the person’s consent, re-
9 gardless of whether such return is induced by physical
10 force and regardless of whether the person is physically
11 present in the United States.

12 **SEC. 4. UNITED STATES POLICY WITH RESPECT TO THE IN-**
13 **VOLUNTARY RETURN OF PERSONS SUB-**
14 **JECTED TO TORTURE.**

15 The United States shall not expel, extradite, or other-
16 wise involuntarily return a person to a country in which
17 there are substantial grounds for believing the person
18 would be in danger of being subjected to torture.

19 **SEC. 5. IMMIGRATION PROCEDURES FOR TORTURE VIC-**
20 **TIMS.**

21 (a) IN GENERAL.—Any alien—

22 (1) who presents a credible claim of having
23 been subjected to torture in the alien’s country of
24 nationality, or, in the case of an alien having no na-

1 tionality, the country in which the alien last habit-
2 ually resided, and

3 (2) who applies for—

4 (A) refugee status under section 207 of the
5 Immigration and Nationality Act,

6 (B) asylum under section 208 of that Act,
7 or

8 (C) withholding of deportation under sec-
9 tion 243(h) of that Act,

10 shall be processed in accordance with this section.

11 (b) CONSIDERATION OF THE EFFECTS OF TOR-
12 TURE.—In considering applications for refugee status,
13 asylum, or withholding of deportation made by aliens de-
14 scribed in subsection (a), the appropriate officials shall
15 take into account—

16 (1) the manner in which the effects of torture
17 can affect the applicant's responses in the applica-
18 tion and in the interview process or other immigra-
19 tion proceedings, as the case may be;

20 (2) the difficulties torture victims often have in
21 recounting their suffering under torture; and

22 (3) the fear victims have of returning to their
23 country of nationality where, even if torture is no
24 longer practiced or the incidence of torture is re-

1 duced, their torturers may have gone unpunished
2 and may remain in positions of authority.

3 (c) EXPEDITED PROCESSING OF REFUGEE ADMIS-
4 SIONS.—For purposes of section 207(c) of the Immigra-
5 tion and Nationality Act, a refugee who presents a credible
6 claim of having been subjected to torture shall be consid-
7 ered to be a refugee of special humanitarian concern to
8 the United States and shall be accorded priority in selec-
9 tion from the waiting list of such refugees based on com-
10 pelling humanitarian concerns.

11 (d) EXPEDITED PROCESSING FOR ASYLUM AND
12 WITHHOLDING OF DEPORTATION.—Upon the request of
13 the alien, the alien’s counsel, or a health care professional
14 treating the alien, an asylum officer or special inquiry offi-
15 cer may expedite the scheduling of an asylum interview
16 or an exclusion or deportation proceeding for an alien de-
17 scribed in subsection (a), if such officer determines that
18 an undue delay in making a determination regarding asy-
19 lum or withholding of deportation with respect to the alien
20 would aggravate the physical or psychological effects of
21 torture upon the alien.

22 (e) PAROLE IN LIEU OF DETENTION.—The finding,
23 upon inspection at a port of entry of the United States,
24 that an alien described in subsection (a) suffers from the
25 effects of torture, such as depressive and anxiety dis-

1 orders, shall be a strong presumptive basis for a grant
2 of parole, under section 212(d)(5) of the Immigration and
3 Nationality Act, in lieu of detention.

4 (f) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the Attorney General shall allocate resources
6 sufficient to maintain in the Resource Information Center
7 of the Immigration and Naturalization Service informa-
8 tion relating to the use of torture in foreign countries.

9 **SEC. 6. SPECIALIZED TRAINING FOR CONSULAR, IMMIGRA-**
10 **TION, AND ASYLUM PERSONNEL.**

11 (a) IN GENERAL.—The Attorney General shall pro-
12 vide training for immigration inspectors and examiners,
13 immigration officers, asylum officers, special inquiry offi-
14 cers, and all other relevant officials of the Department of
15 Justice, and the Secretary of State shall provide training
16 for consular officers, with respect to—

17 (1) the identification of the evidence of torture;

18 (2) the identification of the surrounding cir-
19 cumstances in which torture is practiced;

20 (3) the long-term effects of torture upon the
21 person;

22 (4) the identification of the physical, cognitive,
23 and emotional effects of torture, including depressive
24 and anxiety disorders, and the manner in which

1 these effects can affect the interview or hearing
2 process; and

3 (5) the manner of interviewing victims of tor-
4 ture so as not to retraumatize them, eliciting the
5 necessary information to document the torture expe-
6 rience, and understanding the difficulties victims
7 often have in recounting their torture experience.

8 (b) GENDER-RELATED CONSIDERATIONS.—In con-
9 ducting training under subsection (a)(4) or subsection
10 (a)(5), gender specific training shall be provided on the
11 subject of interacting with women and men who are vic-
12 tims of torture by rape or any other form of sexual vio-
13 lence.

14 **SEC. 7. STUDY AND REPORT ON TORTURE VICTIMS IN THE**
15 **UNITED STATES.**

16 (a) STUDY.—The Center for Disease Control shall
17 conduct a study with respect to refugees and asylees ad-
18 mitted to the United States since October 1, 1987, who
19 were tortured abroad, for the purpose of identifying—

20 (1) the estimated number and geographic dis-
21 tribution of such persons;

22 (2) the needs of such persons for recovery serv-
23 ices; and

24 (3) the availability of such services.

1 (b) REPORT.—Not later than December 31, 1997,
2 the Center for Disease Control shall submit a report to
3 the Judiciary Committees of the House of Representatives
4 and the Senate setting forth the findings of the study con-
5 ducted under subsection (a), together with any rec-
6 ommendation for increasing the services available to per-
7 sons described in subsection (a), including any rec-
8 ommendation for legislation, if necessary.

9 **SEC. 8. DOMESTIC TREATMENT CENTERS.**

10 (a) AMENDMENT OF THE IMMIGRATION AND NA-
11 TIONALITY ACT.—Section 412 of the Immigration and
12 Nationality Act (8 U.S.C. 1522) is amended by adding
13 at the end the following new subsection:

14 “(g) ASSISTANCE FOR TREATMENT OF TORTURE
15 VICTIMS.—(1) The Director is authorized to provide
16 grants to programs in the United States to cover the cost
17 of the following services:

18 “(A) Services for the rehabilitation of victims of
19 torture, including treatment of the physical and psy-
20 chological effects of torture.

21 “(B) Social services for victims of torture.

22 “(C) Research and training for health care pro-
23 viders outside of treatment centers for the purpose
24 of enabling such providers to provide the services de-
25 scribed in subparagraph (A).

1 “(2) For purposes of this subsection, the term ‘tor-
2 ture’ has the same meaning given to the term in section
3 3 of the Torture Victims Relief Act of 1995.”.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—(1) Of
5 amounts authorized to be appropriated to carry out sec-
6 tion 414 of the Immigration and Nationality Act (8 U.S.C.
7 1524) for fiscal year 1996, there are authorized to be ap-
8 propriated such sums as may be necessary to carry out
9 section 412(g) of that Act (relating to assistance for do-
10 mestic centers for the treatment of victims of torture).

11 (2) Amounts appropriated pursuant to this sub-
12 section are authorized to remain available until expended.

13 (c) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on October 1, 1995.

15 **SEC. 9. FOREIGN TREATMENT CENTERS.**

16 (a) AMENDMENTS OF THE FOREIGN ASSISTANCE
17 ACT OF 1961.—Part I of the Foreign Assistance Act of
18 1961 is amended by adding at the end of chapter 1 the
19 following new section:

20 “SEC. 129. ASSISTANCE FOR VICTIMS OF TOR-
21 TURE.—(a) The President is authorized to provide assist-
22 ance for the rehabilitation of victims of torture.

23 “(b) Such assistance shall be provided in the form
24 of grants to treatment centers in foreign countries which
25 are carrying out programs specifically designed to treat

1 victims of torture for the physical and psychological effect
2 of the torture.

3 “(c) Such assistance shall be available—

4 “(1) for direct services to victims of torture;
5 and

6 “(2) to provide research and training to health
7 care providers outside of treatment centers for the
8 purpose of enabling such providers to provide the
9 services described in paragraph (1).

10 “(d) For purposes of this section, the term ‘torture’
11 has the same meaning given to such term in section 3 of
12 the Torture Victims Relief Act of 1995.’’.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—(1) Of
14 the total amount authorized to be appropriated to carry
15 out chapter 1 of part I of the Foreign Assistance Act of
16 1961 for fiscal year 1995, there are authorized to be ap-
17 propriated to the President such sums as may be nec-
18 essary to carry out section 129 of that Act.

19 (2) Amounts appropriated pursuant to this sub-
20 section are authorized to remain available until expended.

21 (c) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on October 1, 1995.

23 **SEC. 10. MULTILATERAL ASSISTANCE.**

24 (a) AUTHORIZATION OF APPROPRIATIONS.—Of the
25 amounts authorized to be appropriated to carry out sec-

tion 301 of the Foreign Assistance Act of 1961 (relating to international organizations and programs), there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the “Fund”) the following amounts for the following fiscal years:

(1) For fiscal year 1996, \$1,500,000.

(2) For fiscal year 1997, \$3,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and

1 Other Cruel, Inhuman or Degrading Treatment or
2 Punishment; and

3 (3) use the voice and vote of the United States
4 to establish a country rapporteur or similar proce-
5 dural mechanism to investigate human rights viola-
6 tions in a country if either the Special Rapporteur
7 or the Committee Against Torture indicates that a
8 systematic practice of torture is prevalent in that
9 country.

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